LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

(ISSN: 2583-7753)

Volume 1 | Issue 4

2024

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MENSTRUAL LEAVES: A NEW APPROACH TOWARDS FEMALE HEALTH ISSUES

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"Menstruation is a small price you pay for being blessed with the grandest gift you can ever wish for, and that is, to have the privilege to give birth."

■ ***Tshetrim Tharchen***

I. ABSTRACT: -

Menstrual cycle is the very unique characteristic of women which is a sign of the capability to give birth to new life. But this also brings various health issues with it. So many women need special care and attention for their health. But for working women it becomes difficult because she has to take leave if she needs to take rest. And if she is running short of leaves then she has to do work even in such poor health conditions. For this a new debate in going nowadays that a woman should be given leaves during her menses. The law, politicians and common man are divided on this issue. Some politicians are against it and some are in favor of this issue. Men are also divided as some think that it is not an important topic to be discussed in public and some are standing strongly in support of allowing such relaxations to females. In India the law on this subject is not uniform. As in many states, the state governments have been giving such leaves as medical leave. But there are many state governments which are silent on this matter. And in the policies of the union government this subject has been raised many times, but no result came. In the laws of various countries of the world menstrual leaves have been a part of the system as society has also accepted such provisions in support of females. Such views should also be accepted in Indian society and equality sometimes needs to be done with the help of positive discrimination. Positive discrimination is required on this subject matter as the nature has made men and women different regarding their reproductive capabilities and for this some things should be decided on the basis of this difference created by mother nature. This study deals with various perspectives regarding menstrual leaves which have been discussed here.

II. KEYWORDS: -

Menstruation, menstrual leaves, health issues, etc.

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III. INTRODUCTION: -

Women have been given a special role by the nature i.e. she can give birth to a new life. Their body is biologically different from men because their role is very different from men as carrying a life in their body is a major responsibility. Due to this, nature has made her body different from men and having menstruation or menses or periods is a characteristic of this role. It is the proof that a woman can bear a child. But it brings many discomforts, risks, pain and suffering for the women. When it comes to a working woman the question of their comfort and health care becomes a topic of discussion or dispute. As it raises a question on their working efficiency and giving leaves for this reason it also becomes a disputed thing as it's a normal human thing and so there is no need of leaves. In patriarchal society, it is a matter subjected to serious issues. This paper analyzes many issues regarding menstrual problems and menstrual leaves.

IV. RESEARCH METHODOLOGY: -

This study is based on doctrinal research. The secondary data has been collected from various statutes, judgments, internet websites, etc. Many internet websites have been referred to find the current situations regarding this subject. The survey reports of government and private organizations have been studied. On the basis of this data qualitative analysis has been done.

V. UNDERSTANDING MENSTRUATION CYCLE: -

To understand the need of menstruation leaves it is also important to understand what they are and why they happen. For this it is necessary to study about female reproductive system. Menstruation cycle is regulated by hormones in the body which play the lead role. It is the brain and ovary which are actively involved during this process. Menstrual cycle begins from the first day of the period to the first day of your next period. The average days for a menstrual cycle are 28 days and in some cases it may range up to 35 days. A female can have bleeding for 3-4 days and some may bleed up to 7 days which depends on person to person. Menstrual cycle has four phases which can be called as stages in menstrual cycle. As it is activities of hormones in the body which forms different stages of menstrual cycle. The phases of menstrual cycle are: -

a. **Menstrual phase: -** In this stage period happens. As when the eggs formed in the previous cycle is not fertilized and so the thick lining which supports for fertilization is no longer needed, so the body releases this lining which flows out through vagina in the form of mucus, blood and tissues.

b. Follicular phase: - In this stage, the hypothalamus (part of brain) directs pituitary gland to release follicle-stimulating hormone (FSH) which stimulates the ovary to produce and grow follicles which are immature eggs. During this period the estrogen level rises and forms the thick lining of the uterus and so creates a safe place for an embryo.

c. Ovulation phase: - Ovulation is the stage when the ovary releases mature eggs. Due to rise in estrogen level, the pituitary gland releases luteinizing hormone (LH). During this phase, the egg travels from gets transferred from fallopian tube to the uterus for fertilization. During this time a female can get pregnant, and the egg gets fertilize by sperm. During this stage the body temperature becomes slightly high and thick discharge happens from vagina. This happens in the mid of the menses and within a day the egg dies if not fertilized.

d. Luteal phase: - At this stage if fertilization happens by sperm, it gets attached to the wall of uterus. If fertilization doesn't happen the level of estrogen and progesterone hormones will drop and the lining of uterus will flow out through vagina.

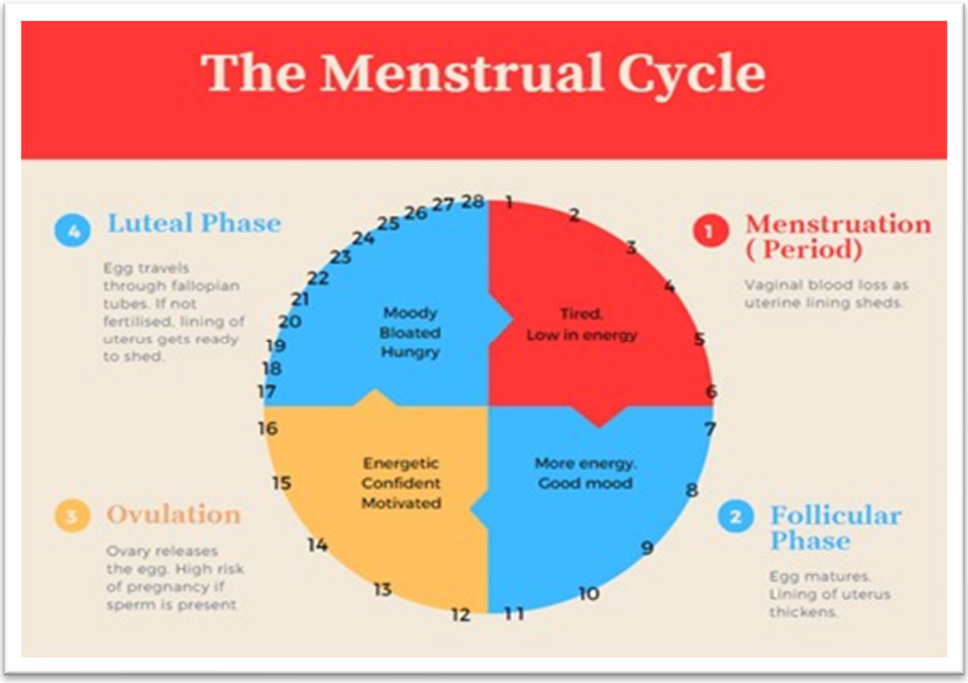

Fig. 1

(Image Source: Internet Website)[2]

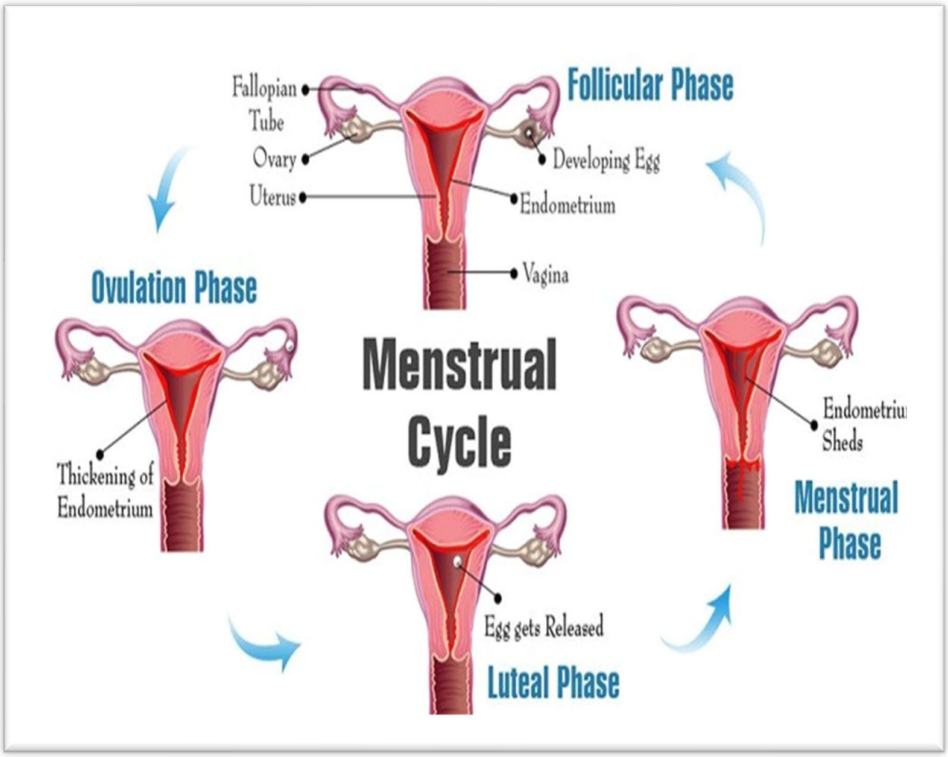

Fig. 2

(Image Source: Internet Website)[3]

VI. MENSTRUATION: A SOCIETAL TABOO:-

Periods happens when the hormones inside the body of a female becomes active. It leads to release of eggs and from fallopian tubes. The eggs move down your fallopian tubes, where it waits for sperm. If a sperm doesn't fertilize that egg, pregnancy doesn't occur. The lining of your uterus breaks down and sheds. This is your period.[4] So it is normal process, when a woman

[2]The Inner Seasons of Menstrual Cycle, (The Hormone Hacker) <https://www.thehormonehacker.com/blog/inner-seasons> accessed 29 December 2023

[3] Riya, Menstruation (Medium, 12 June 2017) <https://medium.com/@riya6angel/menstruation-f97595a1ba3b> accessed 27 December 2023

[4]Cleveland Clinic, (Menstrual Cycle, 12 September 2022)< https://my.clevelandclinic.org/health/articles/10132-menstrual-cycle > accessed 27 December 2023

doesn't get pregnant the inner lining of the uterus flows from the vagina in the form of blood which consists of cells and unfertilized eggs. When a woman is on her periods as per the cultural norms in the various regions she is not allowed to enter into the kitchen. Sometimes she is not allowed to take bath, she is compelled to live in room separate from their homes[5] or the main living area of their house.[6] Along with this, there are some rituals in which first menstruation of girl is celebrated by people as it signifies that the girl has now reached the age of marriage, as she can bear a baby now.

These are all restrictions are applied on women so that they can be given rest during their periods because during such time period of 4-5 days females suffer fever, body ache, abdominal pain, headache, abdominal cramps, fatigue, nausea, diarrhea, gassiness, anxiety, depression, lower back pain, trouble in sleeping, mood swings, etc.[7] These symptoms vary from women to women. It shows that during these days women need proper rest and so they are not allowed to do their daily chores to give them some rest. But with the passage of time, all these have become a part of custom so negatively that women are taken as impure which seems to be discriminating against females. The most famous example of this issue is the Sabrimala Temple Case, in which the custom which banned entry of women between the age of 10-50 years in the Sabrimala Temple was set aside by Hon'ble Supreme Court of India and allowed the women of all ages to enter and worship in the temple.[8] In this case, it was argued that if menstruating women are allowed enter in the temple, it will destroy the purity of the temple. The court held it as violation of right to equality under Article 14 of Indian Constitution. Even in this judgment, Justice Indu Malhotra, one of the siting judge among the constitutional bench gave dissenting opinion.

The males are not friendly with this issue as they think it is a matter of women and they have no need to discuss it and so they do not take it seriously. This attitude of men should not happen as it is a subject related to health and reproductive health of half of the country's population.

VII. MENSTRUATION LEAVES: A NEW APPROACH: -

[5] Wikipedia. (Menstruation) <https://en.wikipedia.org/wiki/Menstruation> accessed 27 December 2023
[6] Wikipedia, (Menstruation) <https://en.wikipedia.org/wiki/Menstruation> accessed 27 December 2023
[7] Wikipedia, (Menstruation) <https://en.wikipedia.org/wiki/Menstruation > accessed 27 December 2023
[8] Supreme Court Observer, (Sabrimala Temple Entry) <https://www.scobserver.in/cases/indian-young-lawyers-association-v-state-of-kerala-sabarimala-temple-entry-background/> accessed 07 January 2023

The concept of menstruation leaves is a very new thing today, as it is the first time that since 2-3 years this concept is being discussed by people. Today men and women both are coming forward to discuss and solve such issues which are considered as a taboo in societal standards.

a. Menstrual leaves in India:- Regarding such leaves, in India Bihar was the first state which granted 2 day paid leaves to women every month since 1992.[9] Recently, Government of Kerala has given menstruation leaves to female students of Higher Education Department.[10] Earlier, The Menstruation Benefits Bill, 2017 and Women Sexual Reproductive and Menstrual Rights Bill were introduced in the Parliament but were not passed and failed. At present there is no law regarding menstrual leave to women in India. Recently, Union Minister of Women and Child Development has given statement against such leaves to women employees. As per her opinion it will create an atmosphere of discrimination against them. She stated that such problem must not be regarded as 'HANDICAP'.

In India, the society is divided. One section is standing in favour of allowing such leaves and the other is against it. The Supreme Court of India has rejected a PIL which was filed requesting to give a direction to Central Government for implementing such leaves.[11] The Supreme Court rejected such plea stating that it is the discretion of the Government to give such leaves or not.[12] The Draft National Menstrual Hygiene Policy, 2023, also has an objective to spread awareness regarding female menstrual health so as to make this issue gender neutral and making it normal to discuss about it without any hesitation by both men and women.[13] The policy also stands for fighting against myths, stigma and gender issues around menstruation.[14]

[9] Harshika Yadav, 'Period Leaves:As India Debates Here's a Look At Mentrual Leave Policy in Other Countries' (News 18, 16 December 2023) <https://www.news18.com/india/period-leave-as-india-debates-heres-a-look-at-menstrual-leave-policy-of-other-countries-8706259.html> accessed 29 December 2023

[10] Samriddhi Shrivastava, 'While Smriti Irani Opposes Paid Menstrual Leaves, These Firms Have Always Been in Favour' (People Matters, 24 December 2023) <https://www.peoplematters.in/news/wellness/while-smriti-irani-opposes-paid-menstrual-leave-these-firms-have-always-been-in-favour-39780> accessed 29 December 2023

[11] Samriddhi Shrivastava, 'While Smriti Irani Opposes Paid Menstrual Leaves, These Firms Have Always Been in Favour' (People Matters, 24 December 2023) <https://www.peoplematters.in/news/wellness/while-smriti-irani-opposes-paid-menstrual-leave-these-firms-have-always-been-in-favour-39780> accessed 29 December 2023

[12] Samriddhi Shrivastava, 'While Smriti Irani Opposes Paid Menstrual Leaves, These Firms Have Always Been in Favour' (People Matters, 24 December 2023) <https://www.peoplematters.in/news/wellness/while-smriti-irani-opposes-paid-menstrual-leave-these-firms-have-always-been-in-favour-39780> accessed 29 December 2023

[13] MinistryofHealthandFamilyWelfare,<https://main.mohfw.gov.in/sites/default/files/Draft%20Menstrual%20Hygiene%20Policy%202023%20-For%20Comments.pdf> accessed 22 January 2024

[14] MinistryofHealthandFamilyWelfare,<https://main.mohfw.gov.in/sites/default/files/Draft%20Menstrual%20Hygiene%20Policy%202023%20-For%20Comments.pdf> accessed 22 January 2024

b. Menstrual leaves in other countries: - The situation on this issue is very different in the world. Among several countries of the world, in 2023 Spain became the first country in Europe which gives menstruation leaves to women.[15] This leave is accessible on giving a medical application by the women.[16] Similarly, in Japan, Article 68 of The Labour Standards Law of Japan, allows menstrual period leaves if a woman is unable to do work during her menses.[17] In Indonesia, also the women are obliged to work in the first two days of the menses.[18] In Vietnam also 3 days leave is available to women along with a half an hour break during their menstruation.[19]

c. Menstrual leaves in private sectors: - Looking at all of the above, in India some private companies allow such eaves to their female employees. Such as Zomato, food delivery service company gives 10 days leaves annually to its female employees as menstruation leaves.[20] In the same way, Swiggy gives 2days leave and Byju's gives 12 days menstrual leaves annually to its female employees.[21] In 2017, Gozoop was the first company in India which gave menstrual leaves.[22] One of the objectives of the Draft National Menstrual Hygiene Policy, 2023, is to make a friendly atmosphere at workplaces for females during their menses.[23]

So menstruation leave is a very important thing for working women because we cannot generalize the pain or discomfort suffered by women as symptoms and difficulties may vary from person to person. Some may suffer pain from 1-2 days, and some may suffer from 1-4 days. Along with all such arguments in support of such leaves, there are also some opinions

[15] Harshika Yadav, 'Period Leaves:As India Debates Here's a Look At Menstrual Leave Policy in Other Countries' (News 18, 16 December 2023) <https://www.news18.com/india/period-leave-as-india-debates-heres-a-look-at-menstrual-leave-policy-of-other-countries-8706259.html> accessed 29 December 2023

[16] Harshika Yadav, 'Period Leaves:As India Debates Here's a Look At Mentrual Leave Policy in Other Countries' (News 18, 16 December 2023) <https://www.news18.com/india/period-leave-as-india-debates-heres-a-look-at-menstrual-leave-policy-of-other-countries-8706259.html> accessed 29 December 2023

[17] Harshika Yadav, 'Period Leaves:As India Debates Here's a Look At Mentrual Leave Policy in Other Countries' (News 18, 16 December 2023) <https://www.news18.com/india/period-leave-as-india-debates-heres-a-look-at-menstrual-leave-policy-of-other-countries-8706259.html> accessed 29 December 2023

[18] Harshika Yadav, 'Period Leaves:As India Debates Here's a Look At Mentrual Leave Policy in Other Countries' (News 18, 16 December 2023) <https://www.news18.com/india/period-leave-as-india-debates-heres-a-look-at-menstrual-leave-policy-of-other-countries-8706259.html> accessed 29 December 2023

[19] Harshika Yadav, 'Period Leaves:As India Debates Here's a Look At Mentrual Leave Policy in Other Countries' (News 18, 16 December 2023) <https://www.news18.com/india/period-leave-as-india-debates-heres-a-look-at-menstrual-leave-policy-of-other-countries-8706259.html> accessed 29 December 2023

[20] Ibid

[21] Ibid

[22] Ibid

[23] Ministry of Health and Family Welfare, <https://main.mohfw.gov.in/sites/default/files/Draft%20Menstrual%20Hygiene%20Policy%202023%20-For%20Comments.pdf> accessed 22 January 2024

which are against such leaves. As there are many people who are not in favor of granting such leaves to females.

There are following reasons for this: -

a. It will led to less hiring of female employees as they will need extra paid leaves then men.

b. It will result in low salary to females in comparison to males.

c. It will create an atmosphere of discrimination against women as they will be taken as non-efficient employees at workplaces.

Many of these arguments are based on human psychology. This is the mentality which society is fighting against.

VIII. DATA ON MENSTRUAL PROBLEMS: -

Regarding the serious issue of menstrual leaves, it is necessary to know the health issues related to female health and to understand the various problems suffered by females during their menses. As per study, done in India by Gyanoveda, a Fem Tech Health Care brand, on 300,000 women in India, it is found that: -

1. 60% of women suffer from PCOS[24]
2. 54% of women suffer from gynecological problems during their or due to periods.[25]
3. 83% of women suffer from pain during their periods.[26]

This raises an alarm that the problems related to menses are of very serious nature and so women need rest and care during their periods. The government of India is also working towards making an atmosphere in which discussions can be done openly on various issues related to female menstruation health and hygiene. As per the National Family Health Survey 5, there are 89.4% urban and 72.3% rural women between 15-24 years of age are using proper hygienic methods during their menstruations.[27]

IX. CONCLUSION: -

[24] Kritika Katira, '70% of Women Face Mentrual Health Issues: India's Largest Health Study Reveals Alarming Trends' (Wion, 15 September 2023) < https://www.wionews.com/entertainment/lifestyle/news-_0-of-indian-women-face-menstrual-health-issues-india%E2%80%99s-largest-period-health-study-reveals-alarming-trends-636287> accessed 31 December 2023

[25] Ibid

[26] Ibid

[27] National Family Health Survey, <https://rchiips.org/nfhs/NFHS-5_FCTS/India.pdf> accessed 22 January 2024

In this study, we find that in early times the women were allowed to take rest during their menses as in that times women were generally homemakers. With the passage of time the ways adopted to provide rest to female during their menses became a societal practice as a discrimination against women. Nowadays women are doing their jobs and most of the females are working and earning for themself or for their families. And in these changing roles of females, it has become a debatable issue to provide leaves to them during their menses which was a part of society earlier by giving them rest from their daily household chores. So why it cannot be done today by the employer or government by providing menstrual leaves to female employees.

As being a working woman is tough because it makes the working hours for women double because they have to manage homes as well as their office work. So their working hours gets increased and so their physical health suffers more than males. And if the female employee is a mother than it further increases her responsibility to remain mentally and physically active even after job working hours. But as there are also opinions against granting such leaves but if we look at both the opinions of supporting and against it, granting such leaves seems to be more necessary. Because the opinions against such leaves are based on human thinking which can be changes with time and if its positive aspect is properly explained to those opposing such leaves will change their opinion in support of it as there are many families having at least one working woman. Having such leaves cannot be said as a right of females but it is health necessity for them to allow them such leaves.

We know that law and social transformation runs side by side, so society is changing, men and women are together coming forward and discussing such issue openly and trying to remove this issue from being a taboo in society. This subject can be removed as a taboo, when women will also come forward and for this open discussions and talks should be done from school levels so that males and females can both be made aware about menstruation and health issues related to them. Thus, law should also change. As many countries have done changes in their laws so it can also be done in India. The new Draft Policy on Menstrual Hygiene is a positive step as it has come out with some dynamic objectives for working women. Granting such leaves will be beneficial to employers also as every institution's growth depends on efficient working of its employees and for that it is also the responsibility of the employers to take care of their employee's health and comfort. The Constitution of India talks about equality i.e. no discrimination shall be done based on sex which also says about positive discrimination. So, granting menstrual leaves is a kind of positive discrimination. About equality between men and

women several people will take it as discriminatory step but as nature has made men and women biologically different and so it is also the responsibility of both men and women to respect that difference created by nature.

The laws should be enforced in states allowing menstrual leaves to female employees. And it should be made mandatory by the government for the private organizations to provide at least 2 days leaves per month as menstrual leaves to female employees or allow females the option to work from home during their menses. So, by this system the work of organization will not suffer loss and it will provide rest to females as being at home will protect women from facing the hectic schedule and travelling exertions. As we have so many examples of private companies which adopted this new concept of leaves. So, it can also be adopted by government offices. By adopting such changes will help females in managing their health and work in a better way because a healthy mind and body is necessary for every human being.